



TAX FACTS

From the
State of Hawaii, Department of Taxation

December, 1998

TRANSIENT ACCOMMODATIONS TAX ON TIME SHARE OCCUPANCY

98-4

Effective January 1, 1999, Act 156, Session Laws of Hawaii 1998, provides that the transient accommodations tax is imposed on the occupant of a time share unit at the rate of 7.25 percent on the unit's fair market rental value. This issue of *Tax Facts* answers questions about the new law, from the time share interval owner's perspective.

1. Why is the occupancy of resort time share vacation units being taxed?

The Legislature found that time share interval owners are similar to transient individuals occupying hotels for tax purposes. Act 156 quotes the following language from The Law and Business of Time-Share Resorts: "The purchaser is essentially purchasing tomorrow's vacation at today's prices and dollars. The contract price is paid or financed all at once and there is no worry about skyrocketing hotel rentals or inflation." Transient individuals occupying a resort time share vacation unit utilize State and county facilities in a manner similar to transient individuals occupying hotels. Act 156, therefore, taxes the transient occupancy of resort time share vacation units under the transient accommodations tax in a manner similar to hotels being taxed on their hotel rental.

2. As a time share interval owner, am I responsible for filing the tax returns for the transient accommodations tax on time share occupancy?

No. The time share plan manager is responsible for collecting the tax, filing the tax returns, and paying the tax to the Department of Taxation.

A plan manager is a person who undertakes the duties, responsibilities, and obligations of managing a resort time share vacation plan or is required to act for a resort time share vacation plan under the Transient Accommodations Tax Law.

3. The transient accommodations tax on time share occupancy is 7.25 percent on the unit's fair market rental value. What is fair market rental value?

Fair market rental value is defined as an amount equal to one-half the gross daily maintenance fees that are paid by the owner, are attributable to the time share unit, and include maintenance costs, operational costs, insurance, repair costs, administrative costs, taxes, other than transient accommodations taxes, and other costs including payments required for reserves or sinking funds. The taxpayer shall use gross daily maintenance fees, unless the taxpayer proves or the Director of Taxation determines that the gross daily maintenance fees do not fairly represent fair market rental value taking into account comparable transient accommodation rentals or by other appraisal methods.

4. I am a time share interval owner and pay \$700 annually in maintenance fees. My time interval period is 7 days. How do I determine the time share unit's fair market rental value?

The daily fair market rental value is calculated as follows:

- (1) Divide the annual maintenance fees for the time interval period by 7 days to obtain the gross daily maintenance fee ($\$700 / 7 \text{ days} = \100).
- (2) Divide the gross daily maintenance fee by 2 to obtain one-half the gross daily maintenance fee ($\$100 / 2 = \50).

To obtain the total fair market rental value for the interval period, the daily fair market rental

value is multiplied by the number of days that the resort time share vacation unit is occupied by the time share interval owner or by some other person (but not rented). The number of days that the time share unit was rented from the time share interval owner should not be included in this calculation. See Question number 7.

5. I am a time share interval owner. My time interval period is 7 days. I only occupied the unit for 5 days. Will I be subject to the transient accommodations tax on time share occupancy for the entire 7 days?

No. Since you occupied the unit for only 5 days, the daily fair market rental value would be multiplied by 5 days to obtain the total fair market rental value that is subject to the 7.25 percent transient accommodations tax on time share occupancy.

6. I am a time share interval owner. My time interval period is 7 days. I decided not to stay at the unit so I let my friend stay at the unit for the 7 days. I did not charge my friend to stay there. Will my friend be subject to the transient accommodations tax on time share occupancy?

Yes. The transient accommodations tax on time share occupancy is imposed on the occupant of the time share unit. An occupant is defined as an owner of a resort time share vacation plan or other person occupying the resort time share vacation unit. Since your friend occupied the unit for 7 days, the daily fair market rental value would be multiplied by 7 days to obtain the total fair market rental value that is subject to the 7.25 percent transient accommodations tax on time share occupancy.

7. I am a time share interval owner. My time interval period is 14 days. I occupied the unit for 7 days and rented the unit to someone else for 7 days. Will I be subject to the transient accommodations tax on time share occupancy for the entire 14 days?

No. Since you occupied the unit for only 7 days, the daily fair market rental value would be multiplied by 7 days to obtain the total fair market rental value that is subject to the 7.25 percent transient accommodations tax on time share occupancy.

However, since you received rental income from the rental of the unit for 7 days, you must be licensed under both the Transient Accommodations Tax Law and the General Excise Tax Law. You must pay to the State the transient accommodations tax at the rate of 7.25 percent on the gross rental or gross rental proceeds derived from furnishing transient accommodations (the time share unit) and report the transient accommodations tax on the regular transient accommodations tax return. Since you are subject to the transient accommodations tax for the 7 days that the time share unit was rented, the plan manager shall not be liable for the transient accommodations tax on time share occupancy for those 7 days. You must also pay to the State the general excise tax at the rate of 4 percent on the gross income derived from the rental of the time share unit. These licensing and payment requirements for time share interval owners existed prior to the enactment of Act 156.

8. I am a time share interval owner. My time interval period is 7 days. I extended my vacation and stayed at the time share unit for 10 days. I was charged an additional amount to stay at the unit for the additional 3 days. Will I be subject to the transient accommodations tax on time share occupancy for the 10 days?

Although you occupied the unit for 10 days, the daily fair market rental value would be multiplied by 7 days to obtain the total fair market rental value that is subject to the 7.25 percent transient accommodations tax on time share occupancy.

Since the time share unit was rented to you for the 3 additional days, the person who rented the unit to you would be subject to the 7.25 percent transient accommodations tax and the 4 percent general excise tax on the rental income received from you. The person may visibly pass on the cost of the taxes to you.

9. I am a time share interval owner and have the right to use a 2-bedroom, 2-bath unit for 7 days. I occupied the unit for the 7 days; however, instead of using the whole unit, I decided to use only 1 bedroom and 1 bath. The rest of the unit (1 bedroom, 1 bath) was "locked out" and I can bank this balance and use it at another time. Will I be subject to the

transient accommodations tax on time share occupancy on the fair market rental value of the whole unit?

No. The portion of the unit which was "locked out" would not be included in the total fair market rental value that is subject to the transient accommodations tax on time share occupancy. This allocation may be based on the ratio of the square footage of the "locked out" portion to the total square footage of the whole unit.

If you have any questions regarding the "lock out" of time share units, please contact your plan manager.

10. I am a time share interval owner. My time interval period runs from the end of

December, 1998, through the beginning of January, 1999. If I occupied the unit for 5 days in December and for 2 days in January, will I be subject to the transient accommodations tax on time share occupancy for the entire 7 days?

No. Since the transient accommodations tax on time share occupancy is effective January 1, 1999, the daily fair market rental value would be multiplied by 2 days to obtain the total fair market rental value that is subject to the 7.25 percent transient accommodations tax on time share occupancy.

STATE DISTRICT TAX OFFICE ADDRESSES & TELEPHONE NUMBERS

Website (Forms & Information)
<http://www.state.hi.us/tax/tax.html>

Forms by Mail
808-587-7572
Toll-Free: 1-800-222-7572

Forms by FAX
Oahu 587-7572
Outside Oahu 808-678-0522 from
your fax machine

CD-ROM (Forms & Info)
Nominal Cost (Limited Supply)

Recorded Tax Updates
808-587-1234 and press 7700

Telephone Devices for the Deaf (TDD)
Tax Service & Processing
808-587-1418
Toll-Free: 1-800-887-8974

Oahu District Tax Office
Princess Ruth Keelikolani Bldg.
830 Punchbowl Street
Honolulu, HI 96813-5094

Maui District Tax Office
State Office Building
54 South High Street, #208
Wailuku, HI 96793-2198

Hawaii District Tax Office
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75 Aupuni Street, #101
Hilo, HI 96720-4245

Kauai District Tax Office
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3060 Eiwa Street, #105
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